

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 4: PROTECTION AND IMPROVEMENT OF AIR

§610-B. OUTDOOR WOOD BOILERS

1. Phase I emission standard.

[2007, c. 442, §2 (NEW); T. 38, §610-B, sub-§1 (RP) .]

2. Phase II emission standard. A person may not sell or distribute for sale an outdoor wood boiler after April 1, 2010 unless it meets a particulate matter emission limit of 0.32 pounds per million British Thermal Units heat output.

[2007, c. 442, §2 (NEW) .]

2-A. Voluntary, technology-forcing emission standard. An outdoor wood boiler meeting a particulate matter emission limit of 0.06 pounds per million British Thermal Units heat output is not subject to a setback requirement as long as it meets the stack height requirements for an outdoor wood boiler meeting the emission standard in subsection 2 in accordance with rules adopted by the department.

[2009, c. 209, §4 (NEW) .]

3. Nuisance condition. A person may not operate an outdoor wood boiler in a manner that creates a nuisance condition as defined in the department's rules.

[2007, c. 442, §2 (NEW) .]

4. Emergency powers. If the commissioner finds after investigation that an outdoor wood boiler is being operated in a manner that creates a nuisance condition or may create or creates a danger to public health or safety, the commissioner may order the owner or any person operating that outdoor wood boiler to immediately cease or prevent that operation, and the commissioner may take such action as may be necessary to terminate or mitigate the danger or likelihood of danger.

A. An order issued under this subsection must contain findings of fact describing, insofar as possible, the site of the operation and the nuisance condition or danger to the public health or safety. [2007, c. 680, §1 (NEW) .]

B. Service of a copy of the commissioner's findings and order under this subsection must be made by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure. [2007, c. 680, §1 (NEW) .]

C. The person to whom the order is directed shall comply immediately. An order may not be appealed to the Superior Court, but the person to whom the order is directed may apply to the board for a hearing on the order if the application is made within 10 working days after receipt of the order by the person to whom the order was directed. Within 15 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote.

The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order is directed. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7. [2007, c. 680, §1 (NEW).]

[2007, c. 680, §1 (NEW) .]

The Department of Environmental Protection shall adopt rules to implement this section. Notwithstanding section 592-A, the rules must include a definition of "nuisance condition" specifically relating to the operation of outdoor wood boilers. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [2007, c. 442, §2 (NEW) .]

SECTION HISTORY

2007, c. 442, §2 (NEW). 2007, c. 680, §1 (AMD). 2009, c. 209, §4 (AMD).
MRSA T. 38, §610-B, sub-§1 (AMD).

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